

STATE OF VERMONT
PUBLIC SERVICE BOARD

Dig Safe Notice No. 778

In Re: Central Vermont Construction, Alleged Violation)
of September 27, 2010, as reported by FairPoint)
Communications)

Order entered: 9/13/2011

ORDER RE: NOTICE OF PROBABLE VIOLATION

Background

1. Pursuant to 30 V.S.A. § 7001 et. seq., and Vermont Public Service Board Rule 3.800, the Vermont Department of Public Service ("Department") issued a Notice of Probable Violation of Underground Utility Damage Prevention System ("NOPV") to Central Vermont Construction ("Respondent").
2. Incident Date: September 27, 2010
3. Incident Location: 135 Church Street, Peacham, VT
4. Name and Address of Company that Reported the Incident to the Department: FairPoint Communications, 55 West Street, Rutland, VT 05701
5. Date Incident Reported to Effected Utility: September 27, 2010
6. Date NOPV issued by Department: June 24, 2011 (#1916)
7. Department's Statement of Evidence Supporting the Alleged Violation: "The Department of Public Service investigated this incident and determined the following details. On 9/22/10, Central Vermont Construction requested a Digsafe mark out for the address 135 Church St., Peacham, VT. Central Vermont Construction was excavating to place a curtain drain around a house at this site. Central Vermont Construction operated their machinery beyond the scope of the Digsafe ticket, and their machinery damaged an unmarked FairPoint service wire. This caused a loss of service to the property owner for 2 hours. The site was not marked out because the Digsafe ticket request called in did not include this location. Central Vermont Construction notified FairPoint of the damaged facility. The Department of Public Service issued 0 Notices of Probable Violation (NOPVs) to Central Vermont Construction during the 12 months preceding this incident."
8. Statute, Rule, Regulation or Order Allegedly violated: 30 V.S.A. § 7004

9. The Department's Recommended Remedial Action(s) (Including Civil Penalties): Civil penalty in the amount of Three Hundred Dollars (\$300.00), and attendance at a Department-approved underground damage prevention seminar.
10. The Respondent has agreed to take the remedial action(s) recommended by the Department.¹

Conclusion and Order

Because the Respondent has not contested the NOPV, or the allegations therein, we conclude that the remedial action proposed in the NOPV is appropriate, and should be imposed.²

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

- (1) Within thirty days of the date of this Order, Central Vermont Construction shall pay a civil penalty in the amount of Three Hundred Dollars (\$300.00) by submitting to the Public Service Board a check in that amount made payable to the State of Vermont, and sent to the Public Service Board at 112 State Street, Montpelier, VT 05620-2701; and
- (2) Central Vermont Construction shall attend an Underground Damage Prevention Seminar at such time and place as determined by the Vermont Department of Public Service.

1. *See*, Respondent's filing of 7/5/11.

2. *See*, Public Service Board Rule 3.807(G).

Dated at Montpelier, Vermont, this 13th day of September, 2011.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 13, 2011

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.